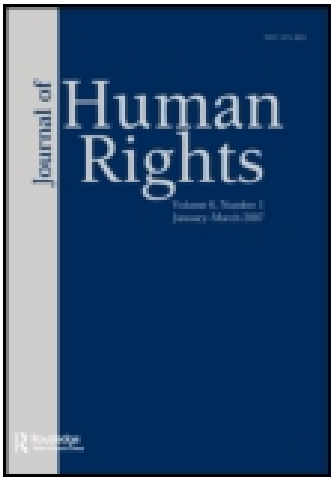
This article was downloaded by: [Istanbul Universitesi Kutuphane ve Dok]
On: 20 December 2014, At: 11:47
Publisher: Routledge
Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Journal of Human Rights
Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/cjhr20

Language Rights: The "Cinderella" Human Right

Stephen May [a]
[a] School of Critical Studies in Education, Faculty of Education , University of Auckland , New Zealand
Published online: 07 Sep 2011.

To cite this article: Stephen May (2011) Language Rights: The "Cinderella" Human Right, Journal of Human Rights, 10:3, 265-289, DOI: 10.1080/14754835.2011.596073

To link to this article: http://dx.doi.org/10.1080/14754835.2011.596073

PLEASE SCROLL DOWN FOR ARTICLE

Taylor & Francis makes every effort to ensure the accuracy of all the information (the "Content") contained in the publications on our platform. However, Taylor & Francis, our agents, and our licensors make no representations or warranties whatsoever as to the accuracy, completeness, or suitability for any purpose of the Content. Any opinions and views expressed in this publication are the opinions and views of the authors, and are not the views of or endorsed by Taylor & Francis. The accuracy of the Content should not be relied upon and should be independently verified with primary sources of information. Taylor and Francis shall not be liable for any losses, actions, claims, proceedings, demands, costs, expenses, damages, and other liabilities whatsoever or howsoever caused arising directly or indirectly in connection with, in relation to or arising out of the use of the Content.

This article may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, redistribution, reselling, loan, sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Terms & Conditions of access and use can be found at http://www.tandfonline.com/page/terms-and-conditions

Journal of Human Rights, 10:265–289, 2011
Copyright © 2011 Taylor & Francis Group, LLC
ISSN: 1475-4835 print / 1475-4843 online
DOI: 10.1080/14754835.2011.596073

Routledge
Taylor & Francis Group

Language Rights: The "Cinderella" Human Right

STEPHEN MAY

In the last 60 years, we have seen the growing development and articulation of human rights, particularly within international law and within and across supranational organizations. However, in that period, the right to maintain one's language(s), without discrimination, remains peculiarly underrepresented and/or problematized as a key human right. This is primarily because the recognition of language rights presupposes recognizing the importance of wider group memberships and social contexts; conceptions that ostensibly militate against the primacy of individual rights in the post-Second World War era. Drawing on theoretical debates in political theory and international law, as well as the substantive empirical example of Catalonia, this article argues that language rights can and should be recognized as an important human right.

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Introduction

The central concern of this article is that language rights have been the Cinderella of human rights in the post-Second World War era; a "bastard stepchild" in the wider family of human rights, roundly rejected as problematic and/or regularly ignored at worst, reluctantly acknowledged and desultorily implemented at best. Even now, 60 years on from the 1948 United Nations Universal Declaration of Human Rights[1] (UDHR), the notion that language rights might be accorded the status of a fundamental human right, and recognized as such by nation-states and supranational organizations, remains both highly contentious and widely contested. The key ongoing point of contention has not been on the general right of an individual to continue to speak a language (any language) unmolested in the private or familial domain, since this broadly accords with the protection of individual human rights that has developed in the post-Second World War era and is thus relatively uncontroversial.[2] Rather, the controversy has focused on whether speakers of minority languages[3] have the

Stephen May is Full Professor of Education in the School of Critical Studies in Education, Faculty of Education, University of Auckland, New Zealand. He is also a Senior Research Fellow in the Centre for the Study of Ethnicity and Citizenship, University of Bristol, UK. Stephen has written widely on language rights and language education. His key books include *Language and Minority Rights,* which was originally published by Longman in 2001 and reprinted by Routledge in 2008. The reprinted edition was recognized as an Outstanding Academic Title by the American Library Association publication, *Choice*, in 2008. A fully revised second edition is being published by Routledge in 2012.

Stephen has edited, with Nancy Hornberger, *Language Policy and Political Issues in Education*, Volume 1 of the 10-volume *Encyclopedia of Language and Education* (second edition; Springer, 2008). He also recently edited, with Christine Sleeter, *Critical Multiculturalism: Theory and Praxis* (2010). Stephen is a Founding Editor of the interdisciplinary journal of sociology and politics, *Ethnicities* (Sage) and Associate Editor of *Language Policy* (Springer).

Address correspondence to Stephen May, Faculty of Education, University of Auckland, Private Bag 92601, Symonds Street, Auckland 1150, New Zealand. E-mail: s.may@auckland.ac.nz

right to maintain and use that particular language in the public, or civic realm—most often in, but not necessarily limited to, education.[4]

The sociolinguist Heinz Kloss (1977) has encapsulated this key distinction via his notions of "tolerance-oriented" and "promotion-oriented" language rights. For Kloss, tolerance-oriented language rights ensure the right to preserve one's language in the private, nongovernmental sphere of national life. These rights may be narrowly or broadly defined. They include the right of individuals to use their first language at home and in public, freedom of assembly and organization, the right to establish private cultural, economic, and social institutions wherein the first language may be used, and the right to foster one's first language in private schools. The key principle of such rights is that the state does "not interfere with efforts on the parts of the minority to make use of [their language] in the private domain" (1977: 2).

In contrast, promotion-oriented rights regulate the extent to which language rights are recognized within the *public* domain, or civic realm, of the nation-state. As such, they involve "public authorities [in] trying to promote a minority [language] by having it used in public institutions—legislative, administrative and educational, including the public schools" (1977: 2). Again, such rights may be narrowly or widely applied. At their narrowest, promotion-oriented rights might simply involve the publishing of public documents in minority languages. At their broadest, promotion-oriented rights could involve recognition of a minority language in all formal domains within the nation-state, thus allowing the minority language group "to care for its internal affairs through its own public organs, which amounts to the [state] allowing self government for the minority group" (1977: 24).[5]

It is this latter notion of promotion-oriented language rights that is the focus of this article. In what follows, the ongoing controversial and contested nature of these rights is explored, drawing on debates in two key interdisciplinary areas: political theory and international law. To conclude, the case of Catalonia provides a concrete illustration of the key issues at stake in the recognition of minority languages in the public, or civic, sphere.

Language Rights and Political Theory

It seems appropriate to begin with political theory because its central concern with the rights attributable to citizens in modern nation-states would appear to be directly pertinent to the question of language rights. And yet, what is most striking is the relative absence of *any* sustained argument in political theory about language rights, beyond those that involve access to the state's majority language(s). Minority language rights, particularly promotion-oriented rights for those groups whose first languages differ from the state language(s), are seldom discussed directly.

The notable exception within political theory to date is the work of Will Kymlicka, who argues in *Politics of the Vernacular* (2001: 23–27, 242–253), for example, for the importance of the link between language and culture as a basis for minority language rights' claims. A failure to recognize minority language rights, he elaborates, actively disadvantages minority language speakers by ignoring and/or stigmatizing their language varieties, as well as confining/consigning them to the private realm. Meanwhile, minority language speakers' access to, and opportunities to engage effectively within, the public or civic realm, where the official language dominates, is also necessarily delimited. Both undermine, for him, the notion of liberal justice.

But despite the wider prominence of his work, Kymlicka's advocacy of minority language rights within political theory is most notable for its relative exceptionalism. This is highlighted most clearly in his edited collection with Allen Patten, *Language Rights and*

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Political Theory (2003). The collection is clearly important because it constitutes the still singular example of a direct, substantive, engagement in political theory with the question of language rights. However, even here, the majority of contributors are largely skeptical and/or opposed to the recognition/implementation of such language rights.[6]

A key reason for this lack of wider discussion of promotion-oriented language rights for minority groups, and a related skepticism towards their recognition and implementation, lies in the normative understanding, post-Second World War, of human rights as primarily, even exclusively, *individual* rights. In contrast, the right to the maintenance of a minority language has generally been articulated in the political arena—both well before the Second World War and since (Thornberry 1991a, 1991b; de Varennes 1996, 2001; see also below)—on the basis that the particular language in question constitutes a collective or communally shared good of a particular linguistic community.[7] Little wonder then, that such claims have received scant sympathy and made even less progress in a political environment largely opposed to group-based rights claims.

The difficulties facing arguments in favor of group-based language rights are most clearly illustrated by the normative ascendancy in political theory of orthodox liberalism, which addresses the person *only* as a political being with rights and duties attached to their status as *citizens*. Such a position does not countenance private identity, including a person's communal membership, as something warranting similar recognition. These latter dimensions are excluded from the public realm because their inevitable diversity would lead to the complicated business of the state mediating between different conceptions of "the good life" (Rawls 1971, 1999; Dworkin 1978, 2000). On this basis, personal *autonomy*—based on the political rights attributable to citizenship—always takes precedence over personal (and collective) *identity* and the widely differing ways of life that constitute the latter. In effect, personal and political participation in liberal democracies, as it has come to be constructed in orthodox liberalism, ends up denying group difference and posits all persons as interchangeable from a moral and political point of view (Young 1993, 2000).

Communitarian critiques of liberalism point out that this strict separation of citizenship and identity in the modern polity understates, and at times disavows, the significance of wider communal affiliations, including one's language(s), to the construction of individual identity. As Sandel (1982) observes, for example, there is no such thing as the "unencumbered self"; we are all, to some extent, *situated* within wider communities that shape and influence who we are.[8] Likewise, Charles Taylor argues that identity "is who we are, 'where we're coming from'. As such, it is the background against which our tastes and desires and opinions and aspirations make sense" (Taylor 1994: 33–34). These arguments also highlight the obvious point that certain goods, such as language, culture, and sovereignty, cannot be experienced alone; they are, by definition, communally shared goods. A failure to account for these communal goods, however, has led to a view of rights within liberal democracy that is inherently individualistic and cannot appreciate the pursuit of such goods other than derivatively (Van Dyke 1977; Taylor 1994; Coulombe 1995; Oestreich 1999).

In short, individualistic conceptions of the good life may preclude shared community values that are central to one's identity (Kymlicka 1989, 1995, 2001), including language. Conversely, as Habermas has put it, "a correctly understood theory of [citizenship] rights requires a politics of recognition that protects the individual in the life contexts in which his or her identity is formed" (1994: 113). As Habermas observes:

> A "liberal" version of the system of rights that fails to take this connection into account will necessarily misunderstand the universalism of basic rights as an abstract levelling of distinctions, a levelling of both cultural and social

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

> differences. To the contrary, these differences must be seen in increasingly context-sensitive ways if the system of rights is to be actualised democratically. (1994: 116)

Criticism of the inherent individualism of orthodox liberalism is not limited to communitarian critiques, however; an important point, since communitarian critiques have themselves been extensively criticized for both essentializing and homegenizing group identities (see Mouffe 1993; Ellison 1997; Carter and Stokes 1998; Bielefeldt 2000; Dalacoura 2002).

Again, Will Kymlicka (1995, 2001, 2007) has been the most prominent political theorist to chart a middle ground here, arguing consistently from a liberal perspective that the attempts of theorists like Rawls (1971) and Dworkin (1978) to separate citizenship from communal identity actually still retain an implicit recognition of cultural membership as a primary good. Following from this, Kymlicka has proffered his notion of "group-differentiated rights"—which can also potentially include language rights—as a means of bridging the orthodox liberal/communitarian divide. A key to Kymlicka's position is his rejection of the assumption that group-differentiated rights are "collective" rights that, ipso facto, stand in opposition to "individual" rights. Group-differentiated rights are not necessarily "collective" in the sense that they privilege the group over the individual; they can in fact be accorded to individual members of a group, or to the group as a whole, or to a federal state/province within which the group forms a majority. For example, the group-differentiated right of Francophones in Canada to use French in federal courts is an *individual* right that may be exercised at any time. Alternatively, the right of the Québécois to preserve and promote their distinct culture in the province of Québec highlights how a minority group in a federal system may exercise group-differentiated rights in a territory where they form the majority. In short, there is no simple relationship between group-differentiated rights accorded on the basis of cultural membership and their subsequent application. As Kymlicka concludes, "most such rights are not about the primacy of communities over individuals. Rather, they are based on the idea that justice between groups requires that the members of different groups be accorded different rights" (1995: 47).[9]

A related argument developed by Kymlicka in support of this position, and one that can also be usefully extended to language rights, is his distinction between what he terms "internal restrictions" and "external protections" (1995: 35–44). Internal restrictions involve *intra*group relations where an ethnic or national minority group[10] seeks to restrict the individual liberty of its members on the basis of maintaining group solidarity. These rights are often associated with theocratic and patriarchal communities and, when excessive, may be regarded as illiberal. In contrast, external protections relate to *inter*group relations where an ethnic or national minority group seeks to protect its distinct identity (including a linguistic one) by limiting the impact of the decisions of the larger society. External protections are thus intended to ensure that individual members are able to maintain a distinctive way of life *if they so choose* and are not prevented from doing so by the decisions of members outside of their community (see Kymlicka 1995: 204, Note 11). This too has its dangers; although not in relation to individual oppression in this case but rather the possible unfairness that might result between groups. The ex-apartheid system in South Africa provides a clear example of the latter scenario. However, as Kymlicka argues, external protections need not result in injustice: "Granting special representation rights, land claims, *or language rights* to a minority need not, and often does not, put it in a position to dominate other groups. On the contrary . . . such rights can be seen as putting the various groups on a more equal footing, by reducing the extent to which the smaller group is vulnerable to the larger" (1995: 36–37; emphasis added).

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Kymlicka argues that, on this basis, liberals can endorse certain external protections where they promote fairness between groups while still contesting internal restrictions that unduly limit the individual rights of members to question, to revise, or to reject traditional authorities and practices (see also Kymlicka 2001, 2007). In relation to the various group-differentiated rights outlined earlier, Kymlicka argues that "most demands for group-specific rights made by ethnic and national groups in Western democracies are for external protections" (1995: 42). Even where internal restrictions are also present, these are usually seen as unavoidable byproducts of external protections rather than as desirable ends in themselves. Given this, it is possible to argue that minority language rights constitute a legitimate external protection (May 2012) since, as Kymlicka concludes, "leaving one's culture, while possible, is best seen as renouncing something to which one is reasonably entitled" (1995: 90). Relatedly, he argues:

> The freedom which liberals demand for individuals is not primarily the freedom to go beyond one's language and history, but rather the freedom to move within one's societal culture, to distance oneself from particular cultural roles, to choose which features of the culture are most worth developing, and which are without value. (1995: 90–91)

Adopting this more inclusive position on language rights for minority groups within modern nation-states accords closely with an earlier (pre-Second World War) understanding of political theory, as illustrated by Hobhouse (1928), who believed that "[t]he smaller nationality does not merely want equal rights with others. *It stands out for a certain life of its own*" (146; emphasis added). Accepting such a position in relation to human rights might also pragmatically address and ameliorate the many political conflicts where language has been, or remains, a key factor. Ongoing conflicts include here the Baltics, the Balkans, Belgium, Canada, Sri Lanka, Algeria, and Turkey, to name but a few (see Horowitz 2000; Safran 2010). Language has also been a key feature in many historical contexts, such as Franco's Spain with respect to the suppression of all languages other than Castilian during his regime (1936–1975), and in many colonial and postcolonial contexts in relation to the consistent derogation and exclusion of the languages of indigenous peoples (see May 2012: Chap. 8 for further discussion). Yet, as Weinstein (1983) observes, while political theorists and other commentators have had much to say about "the language of politics," very few have had anything to say about "the politics of language" (for similar observations, see also Grillo 1989; Kymlicka 1995; Blommaert 1996; Holborow 1999).[11]

Language Rights and International Law

These ambivalences towards any recognition of group-based rights in political theory, including language rights, are also closely reflected in the domain of international law, particularly as it has come to be defined by the Universal Declaration of Human Rights (UDHR). As is widely known, all references to ethnic and national minorities were deleted from the final version of the Declaration.[12] This was, in turn, the result of an emerging widespread conviction at that time that minority group rights were somehow incompatible with national and international peace and stability. As Claude has observed of these developments:

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

> The leading assumption has been that members of national minorities do not need, are not entitled to, or cannot be granted rights of special character. The doctrine of human rights has been put forward as a substitute for the concept of minority rights, with the strong implication that minorities whose members enjoy individual equality of treatment cannot legitimately demand facilities for the maintenance of their ethnic particularism. (1955: 211)

Language rights are especially prone here to ongoing associations with the (unnecessary) promotion of ethnic particularism at the perceived expense of wider social and political cohesion. As the prominent sociolinguist Joshua Fishman ably summarizes this view:

> Unlike "human rights" which strike Western and Westernized intellectuals as fostering wider participation in general societal benefits and interactions, "language rights" still are widely interpreted as "regressive" since they would, most probably, prolong the existence of ethnolinguistic differences. The value of such differences and the right to value such differences have not yet generally been recognised by the modern Western sense of justice. (1991: 72)

And yet, what this view conveniently ignores is a long history in international law of just such recognition of language rights, usually within a wider approach of specific cultural protection for minority groups. In the nineteenth century, for example, treaties were often employed for the protection of minority groups, initially on the basis of religion and later on the grounds of nationality (Thornberry 1991a).[13] These practices culminated in the general organization of the League of Nations, established in the wake of the First World War. The league endorsed a range of bilateral treaties aimed at securing special political status for minority groups within Europe in what came to be known as the Minority Protection Scheme (MPS).[14] The MPS—overseen by its Permanent Court of International Justice (PCIJ)—was primarily concerned with the protection of "displaced" minorities in other nation-states, the result in turn of the reorganization of European state boundaries after the First World War (Wolfrum 1993; Packer 1999). They included two principal types of measures: (1) Individuals belonging to linguistic minorities, amongst others, would be placed on an equal footing with other nationals of the state; and (2) the means of preserving the national characteristics of minorities, including their language(s), would be ensured.

In the most prominent legal ruling on these provisions— the 1935 Advisory Opinion on Minority Rights in Albania[15]—the PCIJ stated that these two requirements were inseparable. It concluded that "there would be no true equality between a majority and a minority if the latter were deprived of its own institutions and were consequently compelled to renounce that which constitutes the very essence of its being a minority" (see Thornberry 1991a: 399–403; Oestreich 1999: 111). On the basis of this judgment, linguistic minorities were confirmed in their right to establish private schools and institutions, a *minimum* tolerance-oriented right. However, where numbers warranted, another key principle in international law with respect to minority protection, public funding of minority language-medium schools was also advanced, a more promotion-oriented right. In respect of this, and other similar decisions, linguistic minorities were defined purely on a numerical basis—that is, as constituting less that 50 percent of the population. That said, freedom of choice as to membership in a minority also seemed to permeate the MPS, a point that will be discussed further below.

As we have seen, however, subsequent developments in international law were rapidly to supersede these treaties and the principles upon which they were based.[16] Minority

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

language and education rights were largely subsumed within the broader definition of human rights adopted by the United Nations since the Second World War. Human rights were thought, in themselves, to provide sufficient protection for minorities.[17] Accordingly, no additional rights were deemed necessary for the members of specific ethnic or national minorities. Nonetheless, even within this more generalist framework of rights, there have been echoes, albeit weak ones, of the principles of minority protection with respect to language and education. The most notable of these has perhaps been Article 27 of the 1966 International Covenant on Civil and Political Rights (ICCPR),[18] which imposes a *negative* duty on nation-states with respect to the protection of the languages and cultures of minority groups:

> In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities *shall not be denied* the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or *to use their own language*.[19] (emphasis added)

Before proceeding to examine Article 27 in relation to its specific implications for language and education, the problematic nature of the initial clause "In those states in which ethnic, religious or linguistic minorities exist" should first be pointed out. Like many other examples of supranational and/or international law (see below), their successful enactment depends in the end on the compliance of nation-states. But even more than this, nation-states have to agree in the first instance that the legislation is applicable to them. Thus, the initial tentative formulation in Article 27 has allowed some states in the past simply to deny that any such minorities exist within their jurisdiction. France is one such example where this has occurred, but there are many others, including Malaysia, Thailand, Japan, Burma, Bangladesh, and many Latin American nation-states (see Thornberry 1991a, 1991b; de Varennes 1996, 2001). This pattern of avoidance has been addressed by revised guidelines in the General Comment of the Covenant, adopted in April 1994, which stipulate that the state can no longer solely determine whether a minority is said to exist or not within its territory. However, the "problem of compliance" remains an ongoing one.

Be that as it may, it is important to explore here what the actual obligations entailed in Article 27 might involve—in particular, to what extent these reflect a tolerance—or promotion-orientation to minority language rights. Likewise, we need to consider exploring further the degree to which these rights attach to groups and/or to individual members of these groups. Dealing with the latter first, the process of agreeing to the particular form of wording in Article 27 provides us with some important clues. As Patrick Thornberry explains, from an initial proposal that "linguistic minorities shall not be denied the right . . . to use their own language," the final wording of Article 27 was arrived at as follows:

> The [UN] Sub-Commission preferred that "persons belonging to minorities" should replace "minorities" because minorities were not subjects of law and "persons belonging to minorities" could easily be defined in legal terms. On the other hand, it was decided to include "in community with other members of their group" after "shall not be denied" in order to recognise group identity in some form. (1991a: 149)

The tension evident here between individual and group ascription is reflected in the question of who exactly can claim rights under Article 27. This question has been tackled on two fronts. First, following the precedent set by the earlier minority treaties, "minorities" in

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Article 27 have come to be defined strictly in numerical terms. A minority is defined as a group who share in common a culture, a religion, and/or a language and who constitute less than 50 percent of a *state's* population. Thus, a minority may be numerically dominant in a particular province (as, for example, are the Québécois in Québec and the Catalans in Catalonia) but may still be classified as a minority within the nation-state. Second, any person may claim to be a member of a linguistic minority group on the basis of self-ascription. However, to benefit from Article 27, they must also demonstrate that some *concrete* tie exists between themselves and the minority group. In relation to a minority language, this would require a real and objective tie with that language. It would not be sufficient, for example, to be a member of a minority ethnic group that is known to speak a particular language if the individual does not speak that language. Nor are particular languages, and the rights associated with them, tied to specific ethnic groups since more than one ethnic group may speak the same language. Determining that an individual belongs to a particular linguistic minority is thus not an issue of establishing some type of legal or political category, it is principally an objective determination based on some concrete link between an individual and a linguistic community (de Varennes 1996).

The definition of what constitutes a linguistic minority for the purposes of Article 27 is important for another reason. It determines whether the rights to minority language and education are tolerance- or promotion-oriented rights. Two opposing schools of thought are clearly evident here. Following the influential review of the scope of Article 27 by Capotorti (1979), some commentators have argued that while the words "shall not be denied" could be read as imposing no obligation on a state to take positive action to protect those rights, an alternative and equally compelling view "is that to recognise a right to use a minority language implies an obligation that the right be made effective" (Hastings 1988: 19). On this basis, it has been argued that Article 27 can be said to encompass a promotion-orientation to language rights, with attendant state support, rather than the more limited tolerance-oriented right that a solely negative duty implies.[20]

This promotion-oriented perspective on language rights can also be linked directly to education. For example, Article 2(b) of the 1960 Convention Against Discrimination in Education[21] specifically provides for the establishment or maintenance, for linguistic reasons, of separate schools, provided attendance is optional and the education is up to national standards. Moreover, Article 5 of this Convention recognizes the *essential* right of minorities to carry on their own educational activities and, in so doing, to use *or teach in* their own language. It subsequently qualifies this right, somewhat contradictorily, by making it conditional on a state's existing educational policies, and by ensuring it does not prejudice national sovereignty and the ability of minorities to participate in national life. However, the right to minority language education can nevertheless be established (Hastings 1988).

The question remains though: To what extent should minority language and education be funded by the state, if at all? Promotion-oriented rights suggest they should but also necessarily impose limits on who is eligible. Capotorti's (1979) review, for example, was predicated on the understanding that Article 27 applied solely to national minorities—immigrants, migrant workers, refugees, and noncitizens were excluded. In contrast, tolerance-oriented rights imply no such obligation on the state. While necessarily more limited, such rights may at least have the advantage of being able to apply to a wider range of minority groups.

And this brings us to the opposing school of thought on Article 27. Fernand de Varennes (1996) argues that Capotorti's interpretation of a more active obligation by the state on behalf of national minorities, and the subsequent commentary that has endorsed this position, does

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

not reflect the actual intentions of Article 27. Indeed, Capotorti admitted as much at the time of his review. In effect, he set aside what the drafters originally meant because of his concern that a negative duty was not sufficient to protect minority language and education rights. In hindsight, de Varennes suggests that Capotorti's pessimism may have been misplaced. After all, the MPS had already established the long-standing principle of *private* language and education for minorities, without any hindrance from the state. Indeed, where sufficient numbers warranted, there was also a recognition that some form of state-funded minority education could be established. As de Varennes concludes: "Article 27 thus appears to be part of a long-established and continuous legal continuum that the rights of linguistic minorities to use their language amongst themselves must necessarily include the right to establish, manage and operate their own educational institutions" (1996: 158). This includes using their language(s) "as the medium of instruction to the extent deemed to be appropriate by the minority itself" (de Varennes 1996: 158).

The debates on the merits of Article 27 as an instrument for promotion-oriented rights remain ongoing. Be that as it may, we can at the very least conclude that Article 27 sanctions a clear baseline for tolerance-oriented language and education rights. This level of protection for minority language and education rights applies to all minority groups on the basis of the strict numerical interpretation of minorities within international law. As such, protection would be extended to include indigenous peoples and immigrant minorities, as well as established national minorities who are more usually the beneficiaries of such measures (cf. Skutnabb-Kangas 2000; see also below). Indeed, where a minority has sufficient numbers, there remains some additional scope for state-funded language education; although, given the emphases of Article 27, this decision remains at the discretion of the nation-states themselves.

This brings us to the central problem of Article 27 and, indeed, most international law in this area, including more recent developments. In short, much of the implementation of such measures is still dependent on what nation-states *deem appropriate*. The result is thus left to the vicissitudes of internal national politics where the provision of minority rights is viewed principally as one of political largesse rather than a fundamental question of human rights. The consequence of this in turn is, more often than not, the adoption of the bare minimum level of rights required (and sometimes not even that).

Notwithstanding this difficulty, the notion of a more promotion-oriented view of minority language and education rights does appear to be gaining some ground, at least for national minorities—that is, those minority groups with an established historical association with a particular territory. In this respect, there have been a number of recent instruments in international law that, at least in theory, allow for a more promotion-oriented perspective on language and education rights. These instruments are, in turn, a product of a more accommodative approach to minorities in the post-Cold War era (Preece 1998).

One of the most significant of these is the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic or Religious Minorities, adopted in December 1992.[22] This UN Declaration recognizes that the promotion and protection of the rights of persons belonging to minorities actually contributes to the political and social stability of the states in which they live (Preamble). Consequently, the Declaration reformulates Article 27 of the ICCPR in the following way:

> Persons belonging to national or ethnic, religious and linguistic minorities . . . have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private *and in public*, freely and without interference or any form of discrimination. (Article 2.1; emphasis added)

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

We can thus see here that the phrase "shall not be denied" in Article 27 has been replaced by the more active "have the right." In addition, and significantly, the formulation recognizes that minority languages may be spoken in the public as well as the private domain, without fear of discrimination. That said, the 1992 UN Declaration, unlike the ICCPR, remains a recommendation and not a binding covenant; in the end, it is up to nation-states to decide if they wish to comply with its precepts. In a similar vein, the actual article that deals with minority language education (Article 4.3) qualifies the more general positive intent of Article 2.1 considerably: "States *should* take *appropriate* measures so that, *wherever possible*, persons belonging to minorities have *adequate* opportunities to learn their mother tongue *or* to have instruction in their mother tongue" (see Skutnabb-Kangas 2000: 533–535 for an extended discussion; emphasis in original).

Another example where exactly the same question applies can be found in the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).[23] The UNDRIP was formulated over a 25-year period. This included the development over more than 10 years of the 1993 Draft Declaration by the Working Group on Indigenous Populations (WGIP), in turn a part of the United Nation's Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The merits of the Draft Declaration were subsequently debated for nearly 15 years, with many UN member states raising substantive and repeated objections to its promotion of greater self-determination for indigenous peoples (see Xanthaki 2007 for a useful overview). Despite these objections, UNDRIP retained its strong assertion of indigenous rights, *including* specific promotion-oriented language and education rights. Article 14.1 states, for example, that "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning." The key question remains though: Given many nation-states' reservations about the document, what likelihood is there of its meaningful implementation within those states?

Other developments in pan-European law also reflect these competing tensions between, on the one hand, a growing accommodation of promotion-oriented minority language and education rights and, on the other, an ongoing reticence of nations-states to accept such a view. The 1992 European Charter for Regional or Minority Languages[24] is one such example. It provides a sliding scale of educational provision for national and regional minority languages (but not immigrant languages) that ranges from a minimal entitlement for smaller groups—preschool provision only, for example—through to more generous rights for larger minority groups such as primary and secondary language education. Again, however, nation-states have discretion in what they provide, on the basis of both local considerations and the size of the group concerned.

European nation-states also retain considerable scope and flexibility over which articles of the charter they actually choose to accept in the first place. In this respect, they are only required to accede to 35 out of 68 articles; although 3 of the 35 articles must refer to education. The process here is twofold. A state must first sign the charter, symbolically recognizing its commitment to the charter's values and principles. Following this, states can ratify the treaty—formally recognizing, in this case, which particular regional or minority languages within the state are to be recognized under the treaty's auspices. On this basis, 33 European states have since signed the charter; although only 24 of these have actually ratified it (Grin 2003; Nic Craith 2006; Council of Europe 2008).[25]

A similar pattern can be detected in the 1994 Framework Convention for the Protection of National Minorities,[26] which was adopted by the Council of Europe in November 1994 and finally came into force in February 1998. The Framework Convention allows for a

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

wide range of tolerance-based rights towards national minorities, including language and education rights. It also asserts at a more general level that contributing states should "promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage" (Article 2.1). That said, the specific provisions for language and education remain sufficiently qualified for most states to avoid them if they so choose (Gilbert 1996; Thornberry 1997; Troebst 1998; Grin 2003; Trenz 2007).

Developments in international law then are at once both encouraging and disappointing. The principle of separate minority recognition in language and education is legally enshrined at least as a minimal tolerance-oriented right—that is, when restricted to the private domain. However, more liberal interpretations of tolerance-oriented rights (involving some state support where numbers warrant), and certainly more promotion-oriented rights, remain largely dependent on the largesse of individual nation-states in their interpretation of international (and national) law with respect to minorities. As a result, there are as yet no watertight legal guarantees for the recognition and funding of minority language and education rights.

However, there *is* an increasing recognition within international and national law that significant minorities within the nation-state have a *reasonable* expectation to some form of state support (de Varennes 1996; Carens 2000). In other words, while it would be unreasonable for nation-states to be required to fund language and education services for all minorities, it is increasingly accepted that, where a language is spoken by a significant number within the nation-state, it would also be unreasonable not to provide some level of state services and activity in that language.

In addition, there are strong arguments for extending the strict numerical definition of minorities within international law, on which this notion of reasonableness is based, to include also the particular claims of *national* minorities (irrespective of number). As de Varennes observes of indigenous peoples, for example, although his argument can be extended here to all national minorities:

> Indigenous peoples, in particular, may have a strong argument that they should receive state services such as education in their primary language, beyond what a strictly "numerical" criterion would perhaps normally warrant. In the case of indigenous peoples [and national minorities more generally], the state may have a *greater* duty to respect their wishes in view of the nature of the relationship between the two, and of the duties and obligations involved. (1996: 97–98; emphasis added)

These developments have also been expedited by growing pressure from many minority groups themselves, who are increasingly unwilling to accept the ongoing marginalization of their languages and cultures as the price for their inclusion in the civic realm. The cumulative result has seen the gradual expansion of separate language and education entitlements within modern nation-states. This is particularly so for national minority groups and is illustrated clearly by the successful reinstantiation in recent times of previously marginalized national minority languages in, for example, Catalonia (Guibernau 1997, 2004; Colino 2009), Québec (Keating 1996; Oakes 2004; Oakes and Warren 2007), New Zealand (May 2004, 2012; chap. 8), and Wales (May 2000; Mann 2007; Williams 2007). The remainder of the article provides an in depth discussion of one of these examples, Catalonia.

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

The Case of Catalonia

The nascent, albeit continuing, trend in international law for a greater recognition of promotion-oriented language rights for minorities is also aided in the European sphere by the emergence of an alternative political forum, at the level of the regions. This process of "Europeanization" (Trenz 2007; Keating 2009) has allowed national minority groups to operate independently of (or at least in conjunction with) the nation-states in which they are currently subsumed in advancing their cause for greater cultural and linguistic recognition. As Esteve noted in the early 1990s, "the dynamics of the present-day situation suggest that Europe may evolve into a complex association of autonomous communities in which the supranational unifying process is accompanied by a reinforcement of . . . regional autonomies" (1992: 259). The intervening period would appear to confirm this observation, with the growing influence of the Europe of the Regions and, in particular, the Council of Europe's Congress of Local and Regional Authorities (Trommer and Chari 2006; Likhachev 2009). Language minorities have been particularly adept here at using this "intermediary space of contention" in the multilevel European system to facilitate and diffuse "common orientations and particular policy models of minority protection" (Trenz 2007: 161).

A case in point is Catalonia, which since 1979 has first successfully reestablished and then entrenched its minority Catalan cultural and language rights as one of the 17 "autonomías" of the post-Franco multinational Spanish state. The Catalonian Generalitat (regional government) has achieved this via the multilateral recognition afforded different regions by the new 1978 Spanish Constitution (see below). But it has also been a leading supporter of the Europe of the Regions and, within the narrow constraints of the intergovernmental system of policymaking, has participated as fully as possible in the formal workings of the EU (Keating 1996, 1997, 2009; Keating and Hooghe 2006). These developments at the substate level have thus provided considerable scope and institutional space for the reestablishment of Catalan as the language of the civic or public realm in Catalonia, after its long-standing proscription under the Franco regime, albeit, as we shall see, not without opposition still from the wider Spanish state.

Catalan is a regional majority language in the area of Catalonia (Catalunya in Catalan), which currently boasts over 9 million speakers in Catalonia and throughout Europe. It is currently spoken outside of Catalonia in Valencia, the Balearic Islands, Andorra, the city of l'Alguer in Sardinia, and the French Departement of Pyrénées-Orientales (also known as the French Roussillon) (see Fishman 1991). However, it also clearly remains a minority language in relation to the wider Spanish state in which it is situated. Strubell (1998) argues in fact that Catalan is unique within Europe because it is the only language of that size that has managed to survive the last three centuries without actually having a state to back it. It is also the only language in that circumstance that has also not entered into an irreversible demographic decline. A large part of the reason for the resilience of Catalan has to do with its prominent role in the long history of Catalonia that can trace its roots back to before the tenth century (Castells 1997). This history, in turn, is characterized by a repeated quest for greater political and linguistic autonomy for Catalonia, often in the face of highly centralist policies that actively repressed Catalan political institutions and the Catalan language along with it (see May 2012; Chap. 7 for further discussion).

The most recent example of this, of course, was demonstrated in the 40-year dictatorship of Franco's Spain (1936–1975), which included the official proscription of Catalan in all public domains—administration, commerce, education, the media, and the Church—and the ruthless enforcement of these linguistic strictures. Even Catalan names and toponyms were banned and replaced by Spanish (Castilian) equivalents. Catalan itself was declared

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

a "mere dialect" and official propaganda of the period described its speakers as "barking like dogs" or as "non-Christian" (Fishman 1991). Only after some 20 years were these restrictions eased, at least to a degree, with some latitude allowed for the use of Catalan within the Church. By 1970, an education law permitting the teaching of (but not in) Catalan was also proposed but was not actually implemented until 1975, the year of Franco's death (Fishman 1991). These late and limited concessions aside, Franco's "glorioso Movimiento nacional" was clearly a centralist Spanish nationalist movement that had as a key aim the repression of Catalan, and its replacement with Castilian Spanish or "la lengua del Imperio" (Strubell 1998).

After the death of Franco, democracy was quickly restored to Spain and a new Constitution agreed by all the main political parties that emerged from the first democratic election, a not inconsiderable achievement in itself. But more radically still, the 1978 Spanish Constitution moved away, to some considerable extent, from the centralist and overtly assimilationist policies that had dominated Spanish politics for so much of the preceding two centuries—most starkly, under Franco. In this respect, the Constitution accomplished a delicate balancing act. On the one hand, it continued to emphasize the ongoing unity and social cohesion characteristic of the traditional centralist conception of the (Spanish) nation-state, most notably by its proclamation of Spanish as its sole official language, to be spoken by all its citizens. On the other hand, the Constitution also specifically recognized Spain's cultural and linguistic pluralism—granting specific cultural and linguistic rights, as well as a considerable degree of political autonomy, to the different national minorities within the Spanish state. The latter moved Spain much closer to the model of a multinational (and multilingual) state. Article 2 of the Constitution encapsulates both these features:

> The Constitution is founded upon the indissoluble unity of the Spanish nation, the common and indivisible patria of all Spaniards, and recognizes and guarantees the right to autonomy of all the nationalities and regions integrated in it and the solidarity among them. (as cited in Guibernau 1997: 93)

On this basis, the 17 Spanish "autonomías" were subsequently established, with Catalonia being the first, via its Statute of Autonomy granted in 1979.[27] The 1979 Catalan Statute of Autonomy is significant for its stress on the historical origins of Catalonia, particularly its language and culture, *coupled with* their restoration within a specifically modern and modernizing democratic political project. Thus the Preamble states: "In the process of regaining their democratic freedom, the people of Catalonia also recover their institutions of self-government" (cited in Guibernau 1997: 94). The statute is also significant for its specific recognition of collective identity and freedom—or more accurately, group-differentiated rights, as envisaged by Kymlicka (see earlier discussion)—a recognition that is implicit in the following:

> The *collective freedom* of Catalonia finds in the institutions of the "Generalitat" [government] a link with a long history of emphasis on and respect for the fundamental rights and public freedoms of individuals *and peoples*: a history which the people of Catalonia wish to continue, in order to make possible the creation of a forward-looking democratic society. (as cited in Guibernau 1997: 95; emphasis added)

A concrete example of just such a group-differentiated right is the right to speak Catalan within Catalonia. Here, the 1979 Statute is unequivocal, asserting that Catalan is "la llengua

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

pròpia de Catalunya" (Catalonia's own language) and that "Catalan is the official language of Catalonia as Castilian is the official language of the whole of the Spanish state" (Article 3.2; see Artigal 1997: 135; Guibernau 1997: 96). The statute also stipulates a specific plan of action:

> The Generalitat . . . will guarantee the normal and official use of both languages, adopt whatever measures are deemed necessary to ensure both languages are known, and create suitable conditions so that full equality between the two can be achieved as far as the rights and duties of the citizens of Catalonia are concerned. (Article 3.3; cited in Strubell 1998: 163)

The task of bringing this about was given to the center-right nationalist coalition "Convergencia i Unio" (CiU), led by Jordi Pujol and elected to lead the Generalitat in the first postdemocratic regional elections in 1980. The CiU remained in power continuously from 1980–2003 and regained power in 2010.[28] It insists on the distinct political character of Catalonia but emphasizes that this can be effectively maintained within the multinational Spanish state, rather than by secession (see Guibernau 1997 for an extended discussion). The CiU also places considerable store on the importance of fostering and maintaining a distinct Catalan identity. Its definition of who is Catalan includes all those who live and work in Catalonia—no ethnic, religious, or racialized distinctions are made. But the CiU does add the key caveat "and wants to be Catalan" and the sign of "wanting to be" Catalan is to learn to speak the language (Castells 1997).[29] As Pujol, the former long-standing leader of CiU, asserted: "our identity as a country, our will to be, and our perspectives for the future depend on the preservation of our language" (as cited in Guibernau 1997: 101). As such, much of the subsequent political efforts of the CiU has centered both on maximizing Catalonia's political autonomy within Spain and reestablishing Catalan fully as the language of the state and civil society.

The reestablishment of Catalan as a civic language, which is the focus of what follows, has been achieved by embarking on an extensive language-policy program within Catalonia itself. The principal instrument of this program, at least initially, was the 1983 Llei de Normalització Lingüística (Law of Linguistic Normalization), also known as the "Charter of the Catalan Language." Linguistic normalization in the Catalonian context was first described by the Congress of Catalan Culture (1975–1977) as "a process during which a language gradually recovers the formal functions it [has] lost and at the same time works its way into those social sectors, within its own territory, where it was not spoken before" (as cited in Torres 1984: 59). In this light, and following Fishman (1991), the process of linguistic normalization subsequently embarked on in Catalonia can be described as having three broad initial aims:

1. To achieve the symbolic promotion and functional institutionalization of Catalan in all key public and private language domains;
2. To redress illiteracy in Catalan, and any remaining sense of inferiority attached to Catalan, both legacies of the Franco years; and
3. Via a "policy of persuasion" (Woolard 1989), to gain the commitment of first language Spanish speakers to Catalan, while at the same time countering any hostility towards Catalan as a perceived "threat" to Spanish as the language of the Spanish state.

Over the course of the last 30 years, Catalonia has been largely successful in achieving the first two objectives; although, as we shall see, the third still remains contested. Today

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Catalonian citizens have the right to use Catalan on all (public and private) occasions, while virtually all written and oral work in the Generalitat and local authorities is now undertaken in Catalan. Of course, these changes did not happen overnight and the most prominent feature of Catalan language planning, particularly in its early stages, was its graduated approach, thus ensuring widespread support, both within Catalonia and Spain as a whole (Woolard 1989; Miller and Miller 1996; Hoffman 1999, 2000; Mar-Molinero 2000).

But subsequent attempts to extend the legal status and institutional reach of Catalan have proved to be somewhat more controversial, particularly in the wider Spanish state; although this is in line with the contested recognition of promotion-oriented language rights more generally, as discussed throughout this article. Most notable here are the 1998 Catalan Linguistic Policy Act and the most recent entrenchment of Catalan language legislation in the new, revised 2006 Catalan Statute of Autonomy.[30]

The 1998 Catalan Linguistic Policy Act had three main objectives. The first was to support the legal consolidation of Catalan language policies in schools and the wider civil service, the former by fully implementing unified Catalan immersion education, the latter by further strengthening formal Catalan language requirements for civil servants working in the Catalonian Generalitat and in local authorities. The second objective was to increase the presence of Catalan in the media and commerce fields (in which Castilian Spanish remained dominant), principally via the introduction of minimum Catalan language quota systems in the media, and the requirement of bilingual service provisions in the commercial sector (Pujolar 2007). In this latter respect, the act specifically called for private companies to implement programs and measures in support of the further use of Catalan at work. The third objective of the act was a more broad-based one to achieve full equality or comparability between Catalan and Spanish in all formal language domains. This included not only the devolved areas of administration regarded as the responsibility of the Catalonian Generalitat but also those areas that still remained under the jurisdiction of the Spanish central government, notably the judicial system, law and order, and tax administration (Costa 2003).

While the 1983 Law of Linguistic Normalization was concerned principally with the extension of the knowledge of Catalan within Catalonia, particularly within education and the wider civil service, the 1998 Catalan Linguistic Policy Act was thus concerned primarily with the further extension of its legal status and institutional reach. These measures constituted, in effect, the "next stage" in the development of promotion-oriented language rights for Catalan. Inevitably, such a "change of pace" generated controversy and opposition, despite the widespread acceptance of Catalan language measures up to that point. However, a significant feature of this opposition was that it was largely initiated and fostered from elsewhere in Spain, rather than from within Catalonia itself. It also tended to be firmly located within a broader conservative political agenda advocating the return of a traditional centralist Spanish nationalism, and a related retrenchment of regional autonomy (DiGiacomo 1999; Guibernau 2004). This was a key feature of the political rhetoric of the Spanish conservative party—the Partido Popular—when it was in power from 1996–2004, and one that continues to form part of its political platform in opposition since that time (see also below). And it was also reflected in the presumption, often trumpeted throughout the 1990s in the Spanish media, that the ongoing promotion of Catalan constituted a direct threat to the primacy of Spanish, and of the language choices of Spanish speakers. This is captured well by the banner headline in a national Spanish paper, the right-wing ABC daily, in 1993: "Igual que Franco pero al revés: persecución del castellano en Cataluña" (The same as Franco but the other way round: The persecution of Castilian [Spanish] in Catalonia) (as cited in Mar-Molinero 2000: 163).

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

Thus, when the unified model of Catalan immersion education was first adopted in 1993, opponents took the Catalonian government to the Spanish Constitutional Court, arguing that the measure contravened the individual language right to speak Spanish, enshrined within the constitution. Unfortunately for the plaintiffs, the Constitutional Court ruled in December 1994 that the Catalan immersion education model *was* constitutional, given that its stated aim was the acquisition of both Catalan and Spanish, and given that this goal is clearly reached because of the broad presence of Spanish in the wider social milieu (see Artigal 1997: 140). This particular decision was broadly congruent with a previous one reached by the same court in February 1991, concerning the formal requirement of a working knowledge of Catalan within the civil service in Catalonia. Catalan language opponents had also argued before the court on that occasion that such a requirement discriminated against Spanish speakers on the grounds of language, while limiting the freedom of movement that the Spanish Constitution guarantees all its citizens. However, the Constitutional Court ruled that the command of an official language within a given autonomous region was neither an unreasonable nor disproportionate requirement (Miller and Miller 1996). Returning to Kymlicka's distinction, discussed earlier, internal restrictions imposed by Catalan language laws were deemed not to be so great as to render those laws, and their basis, as an external protection.

Nonetheless, opposition to the further entrenchment of promotion-oriented language rights for Catalan continues to feature in the wider political landscape in Spain. It resurfaced again directly in relation to the revision and replacement of the 1979 Statute of Autonomy with the 2006 Catalan Statute of Autonomy, which consolidated and extended key areas of regional autonomy, including Catalan language and education. The 2006 Statute of Autonomy grew out of an influential "Report on the Reform of the Statute of Catalonia" in 2004 by the Institut d'Estudis Autonomics (IEA), highlighting a range of limitations in relation to the regional autonomy allowed by the 1979 statute. These included an ongoing lack of recognition of Catalonia as a "nation" and a lack of bilateral negotiation over regional funding, particularly taxation. Throughout 2004 and 2005, intense, often controversial, negotiations occurred between Catalan regional political parties and the central government, by then led by the Spanish Socialist Party (PSOE), under Prime Minister Rodriguez Zapatero (for an extended discussion and analysis, see Colino 2009). Much of the controversy focused on the inclusion of "nation" in the new statute, which was eventually deemed unconstitutional, as well as proposed bilateral relationships and the new funding arrangements. However, a compromise was duly fashioned between the Catalan parties and the central government, and adopted in March 2006. Up to 2010, seven other statutes of autonomy throughout Spain have been similarly revised, while Catalonia itself has implemented over 40 new laws in relation to the newly revised Catalan Statute.

The key aspects of the 2006 Catalan Statute emphasize a separate regional identity, distinct from the Spanish state, with notions of national identity included (by way of compromise) in the Preamble rather than the text itself. Within this wider reassertion of regional autonomy, the language policy developed by Catalonia over the last 30 years is further entrenched. As Colino summarizes it:

> Following the notion that Catalan is Catalonia's only "proper" language, considering Spanish as simply the official state language, the new statute establishes Catalan as the language of preferential use in public administration bodies, in the public media and as the language of normal use for instruction in the education system, now extending this to university education. . . . [it requires citizens] to know the regional language . . . thus equalizing its status with that of Spanish in the constitution. It also introduces the so-called obligation of linguistic

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

> availability, which imposes the obligation for businesses and establishments of answering its users or consumers in the language of their choice. (2009: 275)

In addition, the statute extends promotion-oriented language rights within the region to the Aranese variant of Occitan, spoken in the subregion of Val d'Aran, and to Catalan sign language, both of which are elevated to co-official languages alongside Catalan and Castilian. The new statute also directly addresses the rights of other language speakers, particularly the growing number of Arabic and Urdu speakers who have migrated to the region in increasing numbers over the last decade. Specific tolerance-oriented language rights are now provided so that other-language speakers can maintain these languages privately, if they so choose, as well as ensuring access to key services and opportunities to learn the official languages of the region (París 2007).

Be that as it may, the overall legitimacy and reach of the 2006 Statute of Autonomy remains an open question. As recently as July 2010, the Spanish Constitutional Court, in response to an appeal in 2006 from the Conservative Partido Popular, now in opposition, has overturned key aspects of the previously agreed 2006 Catalan Statute of Autonomy. The court ruling, mired in four years of controversy and dominated currently by conservative (Spanish nationalist) judges, has revised aspects of the statutes so that *any* notion of nationhood for Catalonia, even in conjunction with the Spanish state, is specifically excluded (Pericay 2010). The court acknowledges that Catalonia as a separate nation "is a perfectly legitimate idea," but the judges still deemed it to have no legal basis (Krumova 2010). Rather, the court asserts, "Catalonia is a nationality" within the "only and indissoluble Spanish nation" (Pericay 2010). Moreover, the recognition of Catalan as the official language of Catalonia is somewhat retrenched. While the Catalan linguistic model has been retained (there were initial fears that even this would be dismantled), in the end, the court rejected the notion that Catalan was the region's "only proper language," reducing the Catalan language to "the main" language used by the public administration and by public media (Pericay 2010).

Conclusion

The Catalan case demonstrates how a group-differentiated approach to citizenship, in conjunction with a multilevel process of political engagement, can significantly enhance the possibilities and prospects of language rights as a key human right. In conjunction with developments in international law, it also allows for the formal recognition of our-often multiple linguistic identities and the related right to maintain the use of *all* one's languages, if we so choose, in the private or familial sphere (tolerance-oriented rights), as well as the public or civic realm (promotion-oriented rights)—the latter, most usually, via the criterion "where numbers warrant."

However, the Catalan case also highlights that the validity of promotion-oriented rights, as well as the basis on which they might be granted, remains controversial and (often) contested, *even when* they are already well established. The fact that these oppositional arguments are largely invalid and/or demonstrably refutable does not change the regular, ongoing, and often vociferous nature of this opposition to promotion-oriented language rights. After all, in the case of Catalonia, the formal promotion of Catalan clearly does *not* threaten either the position of Spanish or the rights of Spanish speakers in the wider Spanish state. Spanish has never been officially proscribed in Catalonia in any domain (not least because the Spanish Constitution forbids it), nor for that matter has any other language. Indeed, Spanish is specifically enshrined as the *only* official language of the *whole* Spanish

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

state, while Catalan only has co-official rights within the autonomous region of Catalonia, now even more delimited by the latest Constitutional Court ruling. And Spanish still remains the dominant language in the media, as well as in fields such as justice, commerce, and taxation within Catalonia. As Yates sensibly concluded over a decade ago, "by any objective standards, Catalan is still a subordinate language in a process of 'reverse shift', with a long way to go towards normalization in key areas" (1998: 207); an observation that still holds true today.

Ongoing opposition to promotion-oriented language rights is often couched in terms of individual rights—most usually, the right of majority language speakers (Spanish, in this case) to remain monolingual. Opposition is also regularly framed within a discourse of "'illiberality"—that the establishment of promotion-oriented rights is somehow an illiberal imposition on majority language speakers. However, this begs the key question: If Spanish speakers in Spain can regard the formal recognition of their language, within their own historic territory, as an inalienable right (with no question of illiberality), why cannot Catalans as well?

If there is a valid point to be made here, it is not one made by opponents of the Catalan laws, nor is it about Spanish. Rather, it is that, prior to the 2006 Statute of Autonomy, the promotion of Catalan did not extend to the *active* recognition of other minority languages and cultures within Catalonia, "where numbers warrant." In this respect, there have been long-settled communities of Roma in Catalonia and, more recent migrants from North Africa (Yates 1998; Hoffmann 1999; Pujolar 2007). These groups' languages and cultures were almost entirely ignored in the language debates of the 1980s and 1990s and attendant institutional support—for example, via first language education—remains extremely limited (Tarrow 1992). Thus, even where, as in the case of Catalonia, key promotion-oriented language rights are extended to national minority groups, the rights of ethnic minority groups still need (more) serious attention. Given the active retrenchment, post-9/11, of the politics of multiculturalism, particularly in Europe (Modood 2007; May 2009), this amounts to a considerable and ongoing human rights challenge.

To conclude, there is no suggestion here that all linguistic minority groups can necessarily claim the *same* linguistic rights—greater ethnolinguistic *democracy* is not necessarily the same as ethnolinguistic *equality*. What can be argued, however, is that all such groups should have granted, *at the very least*, tolerance-oriented language rights under established human rights' principles. Moreover, as outlined, there are clear principles in both political theory and international law that provide for the granting of promotion-oriented language rights to particular national and ethnic minority groups in given social and political contexts, on a case-by-case basis, *given the political will to do so*.

And this is the final point. The recognition of language rights as an essential human right is, in the end, a question of political will. In an era where the notion of individual human rights still so dominates, developing and implementing a group-differentiated understanding of language rights for minority groups is clearly neither easy nor fashionable. Ongoing opposition to such rights suggests as much, as does the lack of engagement with, and application of, meaningful language rights for minorities in national and international law. However, it is crucial precisely because it is the key mechanism by which we can (and should) rethink social and political organization, at supranational, nation-state, and substate levels, in more linguistically plural, egalitarian, and inclusive ways. This may well require what Dembour (2010) has recently identified as a more "protest" human rights discourse on minority language rights (without acceding to the connotations of intemperateness and futility that her analysis of this position also implies). But so be it, since only then can

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

promotion-oriented language rights lose their pejorative status as the "bastard stepchild" of human rights; perhaps, like Cinderella, they might even get invited eventually to the ball.

Notes

1. Universal Declaration of Human Rights, *adopted* 10 December 1948, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess. (Resolutions, part 1), at 71, U.N. Doc. A/810 (1948).
2. Of course, this does not mean that states have always adhered to even this general human rights principle. Franco's Spain, which I will return to, is a clear historical example where such individual language rights were foreclosed for all other than Castilian speakers. The ongoing state-sanctioned proscription of Kurdish in Turkey and Tibetan in China are two contemporary examples of states that continue to flout this human rights principle.
3. As with the difficulties of defining what constitutes a "minority" itself (see, e.g., Pejic 1997; see also Note 9), the distinction between a "minority language" as opposed to a "majority" or "dominant" language is not necessarily always straightforward or clear. However, in accordance with widely accepted understandings in the field of language policy, the distinction between "minority" and "majority" languages made throughout this article is based not on numerical size but on clearly observable differences among language varieties in relation to power, status, and entitlement.
4. As we shall see, education is a prominent institutional site or locus in many disputes on the public funding and recognition of minority languages in modern nation-states.
5. Kloss's distinction between tolerance- and promotion-oriented language rights is also broadly comparable to one drawn by Churchill (1986), in his typology of minority language policy approaches within the OECD, between the maintenance of languages for private use versus the widespread institutional recognition of languages (for an extended discussion, see May 2012: Chap. 5).
6. What is most striking in Kymlicka and Patten (2003) is that, apart from qualified support given to minority language rights in Patten's own contribution, *all* the major political theorists who contributed to the volume strongly opposed minority language rights. The contributors who did support minority language rights, including May, Rubio-Marin, Grin, and Réaume, came from backgrounds in either language policy or international law.
7. After all, if a language is to continue to be spoken it requires, by definition, someone else to talk *with*. On this basis, when a language ceases to be spoken by a *community* of speakers, it has already effectively perished.
8. Communitarians believe that we discover our ends embedded in a social context, rather than choosing them ex-nihilo. Their principal objection in this regard is thus to the idea of a self divorced from, or stripped of, the social features of identity (Coulombe 1995).
9. Nonetheless, subsequent commentators still often fail to understand or make the distinction, eliding collective and differentiated rights. A notable example of this intellectual solecism—in turn the result of a wider, often wilful, conflation and distortion of relevant academic arguments about such rights—can be found in Edwards (2003).
10. Following accepted distinctions within political theory and international law, ethnic minorities are seen to comprise immigrant and refugee groups who have settled subsequently in a new host society. National minorities, however, are groups that have been historically associated with a particular territory (i.e., they have not migrated to the territory from elsewhere) but because of conquest, confederation, or colonization are now regarded as minorities within that territory (see Kymlicka 1995; May 2012). Generally, as we will see, it is the latter group who are more likely to have their cultural and linguistic rights recognized, at least with respect to promotion-oriented rights.
11. Prior to Kymlicka (2001), the few notable exceptions were French Canadian political theorists discussing the issue of Québec; see, for example, Coulombe (1995, 1999) and Réaume (1999). Of course, one might add Charles Taylor's (1994) seminal contribution on the "politics of

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

recognition" here as well; although language forms only a part of his wider discussion and, when it does, it tends also to be framed primarily in relation to Québec.

12. Article 2 of the Declaration states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race [*sic*], colour, sex, religion, political or other opinion, national or social origin, property, birth or other status." Consequently, minorities, as such, do not enjoy rights in the declaration. Various attempts at including a recognition of minorities in the text were strongly opposed at the draft stages, the consensus being that "the best solution of the problems of minorities was to encourage respect for human rights" (Thornberry 1991b: 11–12).
13. Indeed, as Oestreich (1999: 110) observes, examples of the protection of religious minorities can be traced as far back as the early Middle Ages, with a number of prominent treaties that included specific religious protection also evident in the seventeenth and eighteenth centuries (Oestreich 1999: 132, Note 10). For a useful historical overview of minority protections, and the role and influence of the League of Nations, see Duchêne (2008: 47–54).
14. It must be said that the League of Nations did not initially encompass a formal concern for minority rights. Indeed, no provisions dealing with the protection of minorities—nor, for that matter, human rights generally—were incorporated within its original remit. However, these omissions created significant controversy and led the League of Nations subsequently to adopt and oversee the MPS. It should also be pointed out here that the latter was as much concerned with providing a mechanism for the protection of individual rights, especially the right to equality, as with the specific concerns of national minorities. As such, the League of Nations' approach is not inconsistent with the more recent adoption of universal human rights (see de Varennes 1996: 26–27).
15. Advisory Opinion No. 11, Minority Schools in Albania, 1935 P.C.I.J. (Ser. E) No. 11, at 136 (6 April 1935).
16. The abuse of the MPS by the Nazi regime, whereby Hitler used a supposed concern for the rights of German minorities elsewhere in Europe as the catalyst for the Second World War, also clearly contributed to this move away from minority cultural (and linguistic) recognition.
17. This has not actually proved to be the case. Indeed, the United Nations itself has since admitted as much: The *Human Rights Fact Sheet on Minorities* (No. 18, March 1992: 1; emphasis in original) states, for example, "the setting of standards which create additional rights and make special arrangements for persons belonging to minorities and for the minorities as *groups*—although a stated goal of the United Nations for more than 40 years—has made slow progress."
18. International Covenant on Civil and Political Rights, *adopted* 16 December 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, art. 27, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* 23 March 1976).
19. See http://www2.ohchr.org/english/law/ccpr.htm#art27
20. For other examples of this position, see Thornberry (1991a, 1991b), Tollefson (1991), Pejic (1997), Skutnabb-Kangas (1998, 2000), May (1999, 2004), Dunbar (2001, 2007), and Henrard (2000, 2010).
21. Convention Against Discrimination in Education, *adopted* 14 December 1960 (*entered into force* 22 May 1962), 429 U.N.T.S. 93.
22. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2, para. 1, *adopted* 18 December 1992, G.A. Res. 47/135 Annex, U.N. Doc. A/Res/47/135/Annex (1992).
23. United Nations Declaration on the Rights of Indigenous Peoples. Adopted by General Assembly Resolution 61/295 on 13 September 2007. See http://www.un.org/esa/socdev/unpfii/en/drip.html
24. European Charter for Regional or Minority Languages, *opened for signature* 5 November 1992, Council of Europe. T.S. No. 148 (*entered into force* 1 March 1998).
25. As of 2009, nine European states have signed the charter but not ratified it: Azerbaijan, Bosnia and Herzegovina, France, Iceland, Italy, Malta, Moldova, Russia, and the Former Yugoslav Republic of Macedonia.

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

26. The Framework Convention for the Protection of National Minorities, *opened for signature* 1 February 1995, C.E.T.S. No. 157 (*entered into force* 1 February 1998).
27. A new Statute of Autonomy, implemented in 2006, is discussed further below.
28. In 2003, the CiU lost its absolute majority for the first time, a result that led Jordi Pujol to retire from politics. From 2003–2010, the CiU was the main opposition party at the Catalan autonomous level, having been replaced in the government by a left-wing tripartite coalition formed in 2003 and re-formed after the 2006 Catalan regional elections, which were called due to divisions in the coalition. In 2010, however, the CiU, under its current leader Artur Mas, once again regained control of the Catalan Generalitat, albeit without an absolute majority, winning 62 out of 135 seats.
29. As Woolard (1989) observes, this has led to a deliberate emphasis in political discourse on inclusive/encompassing definitions of Catalan identity—principally, via the use of "citizens of Catalonia," rather than "Catalans" (see also Pujolar 2007).
30. See http://www.gencat.cat/generalitat/eng/estatut/index.htm

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

References

ARTIGAL, Josep. (1997) The Catalan immersion program. In *Immersion Education: International Perspectives*, Robert Johnson and Merrill Swain (eds.) (Cambridge: Cambridge University Press).

BIELEFELDT, Heiner. (2000) "Western" versus "Islamic" human rights conceptions?: A critique of cultural essentialism in the discussion on human rights. *Political Theory*, 28(1), 90–121.

BLOMMAERT, Jan. (1996) Language and nationalism: Comparing Flanders and Tanzania. *Nations and Nationalism*, 2, 235–256.

CAPOTORTI, Francesco. (1979) *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (New York: United Nations).

CARENS, Joseph. (2000) *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press).

CARTER, April, and STOKES, Geoffrey. (1998) *Liberal Democracy and its Critics* (Cambridge: Polity Press).

CASTELLS, Manuel. (1997) *The Power of Identity* (Oxford: Blackwell).

CHURCHILL, Stacy. (1986) *The Education of Linguistic and Cultural Minorities in the OECD Countries* (Clevedon, England: Multilingual Matters).

CLAUDE, Inis. (1955) *National Minorities: An International Problem* (Cambridge, MA: Harvard University Press).

COLINO, César. (2009) Constitutional change without constitutional reform: Spanish federalism and the revision of Catalonia's Statute of Autonomy. *Publius: The Journal of Federalism*, 39, 262–288.

COSTA, Josep. (2003) Catalan linguistic policy: Liberal or illiberal? *Nations and Nationalism*, 9, 413–432.

COULOMBE, Pierre. (1995) *Language Rights in French Canada* (New York: Peter Lang).

COULOMBE, Pierre. (1999) Citizenship and official bilingualism in Canada. In *Citizenship in Diverse Societies*, W. Kymlicka and W. Norman (eds.) (Oxford: Oxford University Press).

COUNCIL OF EUROPE. (2008) *The European Charter for Regional or Minority Languages: legal challenges and opportunities* (Strasbourg: Council of Europe Publishing).

DALACOURA, Katarina. (2002) A critique of communitarianism with reference to post-revolutionary Iran. *Review of International Studies*, 28, 75–92.

DEMBOUR, Marie-Bénédicte. (2010) What are human rights? Four schools of thought. *Human Rights Quarterly*, 32(1), 1–20.

DE VARENNES, Fernand. (1996) *Language, Minorities and Human Rights* (The Hague: Kluwer Law International).

DE VARENNES, Fernand. (2001) Language rights as an integral part of human rights. *International Journal on Multicultural Studies*, 3, 15–25.
DIGIACOMO, Susan. (1999) Language ideological debates in an Olympic city: Barcelona 1992–1996. In *Language Ideological Debates*, Jan Blommaert (ed.) (Berlin: Mouton de Gruyter).
DUCHÊNE, Alexandre. (2008) *Ideologies across Nations: The Construction of Linguistic Minorities at the United Nations* (Berlin: Mouton de Gruyter).
DUNBAR, Robert. (2001) Minority language rights in international law. *International and Comparative Law Quarterly*, 50, 90–120.
DUNBAR, Robert. (2007) Diversity in addressing diversity: Canadian and British legislative approaches to linguistic minorities and their international context. In *Language and Governance*, Colin H. Williams (ed.) (Cardiff: University of Wales Press).
DWORKIN, Ronald. (1978) Liberalism. In *Public and Private Morality*, Stuart Hampshire (ed.) (Cambridge: Cambridge University Press).
DWORKIN, Ronald. (2000) *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge MA: Harvard University Press).
EDWARDS, John. (2003) Contextualising language rights. *Journal of Human Rights*, 2(4), 551–571.
ELLISON, Nick. (1997) Towards a new social politics: Citizenship and reflexivity in late modernity. *Sociology*, 31, 697–717.
ESTEVE, Jose. (1992) Multicultural education in Spain: The autonomous communities face the challenge of European unity. *Education Review*, 44, 255–272.
FISHMAN, Joshua. (1991) *Reversing Language Shift: Theoretical and Empirical Foundations of Assistance to Threatened Languages* (Clevedon, England: Multilingual Matters).
GILBERT, Geoff. (1996) The Council of Europe and minority rights. *Human Rights Quarterly*, 18(1), 160–189.
GRILLO, Ralph. (1989) *Dominant Languages: Language and Hierarchy in Britain and France* (Cambridge: Cambridge University Press).
GRIN, François. (2003) *Language Policy Evaluation and the European Charter for Regional or Minority Languages* (London: Palgrave-Macmillan).
GUIBERNAU, Montserrat. (1997) Images of Catalonia. *Nations and Nationalism*, 3, 89–111.
GUIBERNAU, Montserrat. (2004) *Catalan Nationalism: Francoism, Transition and Democracy* (London: Routledge).
HABERMAS, Jürgen. (1994) Struggles for recognition in the democratic constitutional state. In *Multiculturalism: Examining the Politics of Recognition*, Amy Gutmann (ed.) (Princeton, NJ: Princeton University Press).
HASTINGS, William. (1988) *The Right to an Education in Māori: The Case from International Law* (Wellington, New Zealand: Victoria University Press).
HENRARD, Kristin. (2000) *Devising an Adequate System of Minority Protection* (The Hague: Kluwer Law).
HENRARD, Kristin (ed.). (2010) *Double Standards Pertaining to Minority Protection* (Leiden, The Netherlands: Martinus Nijhoff).
HOBHOUSE, Leonard. (1928) *Social Evolution and Political Theory* (New York: Columbia University Press).
HOFFMANN, Charlotte. (1999) Language autonomy and national identity in Catalonia. In *Whose Europe? The Turn Towards Democracy*, D. Smith, and S. Wright (eds.) (Oxford: Blackwell/ Sociological Review).
HOFFMANN, Charlotte. (2000) Balancing language planning and language rights: Catalonia's uneasy juggling act. *Journal of Multilingual and Multicultural Development*, 21(5), 425–441.
HOLBOROW, Marnie. (1999) *The Politics of English: A Marxist View of Language* (London: Sage).
HOROWITZ, Donald. (2000) *Ethnic Groups in Conflict, 2nd ed*. (Berkeley, CA: University of California Press).
KEATING, Michael. (1996) *Nations Against the State: The New Politics of Nationalism in Québec, Catalonia and Scotland* (London: Macmillan Press).

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

KEATING, Michael. (1997). Stateless nation-building: Québec, Catalonia and Scotland in the changing state system. *Nations and Nationalism*, 3, 689–717.
KEATING, Michael. (2009) Social citizenship, solidarity and welfare in regionalized and plurinational states. *Citizenship Studies*, 13, 501–513.
KEATING, Michael, and HOOGHE, Liesbet. (2006) Bypassing the nation-state? Regions and the EU policy process. In *European Union: Power and Policy, 3rd ed.*, Jeremy Richardson (ed.) (London: Routledge).
KLOSS, Heinz. (1977) *The American Bilingual Tradition* (Rowley, MA: Newbury House).
KRUMOVA, Kremena. (2010, July 11) Catalonia protests "one nation" in Spain. *The Epoch Times.* [Online]. Available: http://www.theepochtimes.com/n2/content/view/38989/ [29 July 2010].
KYMLICKA, Will. (1989) *Liberalism, Community and Culture* (Oxford: Clarendon Press).
KYMLICKA, Will. (1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press).
KYMLICKA, Will. (2001) *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (Oxford: Oxford University Press).
KYMLICKA, Will. (2007) *Multicultural Odysseys: Navigating the New International Politics of Diversity* (Oxford: Oxford University Press).
KYMLICKA, Will, and PATTEN, Alan (eds.). (2003) *Language Rights and Political Theory* (Oxford: Oxford University Press).
LIKHACHEV, Vasilii. (2009) Parliamentary diplomacy. *International Affairs*, 3, 153–165.
MANN, Robin. (2007) Negotiating the politics of language: Language learning and civic identity in Wales. *Ethnicities*, 7(2), 208–224.
MAR-MOLINERO, Clare. (2000) *The Politics of Language in the Spanish-Speaking World* (London: Routledge).
MAY, Stephen. (1999) *Indigenous Community-based Education* (Clevedon: Multilingual Matters).
MAY, Stephen. (2000) Accommodating and resisting minority language policy: The case of Wales. *International Journal of Bilingual Education and Bilingualism*, 3(2), 101–128.
MAY, Stephen. (2004) Medium of instruction policy in New Zealand. In *Medium of Instruction Policies: Which agenda? Whose Agenda?*, James Tollefson and Amy Tsui (eds.) (Mahwah, NJ: Lawrence Erlbaum Associates).
MAY, Stephen. (2009) Critical multiculturalism and education. In *Routledge International Companion to Multicultural Education*, James Banks (ed.) (New York: Routledge).
MAY, Stephen. (2012) *Language and Minority Rights: Ethnicity, Nationalism and the Politics of Language, 2nd ed*. (New York: Routledge).
MILLER, Henry, and MILLER, Kate. (1996) Language policy and identity: The case of Catalonia. *International Studies in Sociology of Education*, 6, 113–128.
MODOOD, Tariq. (2007) *Multiculturalism: A Civic Idea* (Cambridge, UK: Polity Press).
MOUFFE, Chantal. (1993) *The Return of the Political* (London: Verso).
NIC CRAITH, Máiréad. (2006) *Europe and the Politics of Language: Citizens, Migrants, and Outsiders* (London: Palgrave-Macmillan).
OESTREICH, Joel. (1999) Liberal theory and minority group rights. *Human Rights Quarterly*, 21(1), 108–132.
PACKER, John. (1999) Problems in defining minorities. In *Minority and Group Rights in the New Millennium*, Deidre Fottrell and Bill Bowring (eds.) (The Hague: Kluwer Law International).
PARÍS, Miquel. (2007) *Language Policy as Social Policy: The Role of Languages in an Open Society.* [Online]. Available: http://www20.gencat.cat/docs/Llengcat/Documents/Publicacions/Publicacions%20en%20linea/Arxius/conf_spl2007_ang.pdf [19 December 2009].
PEJIC, Jelena. (1997) Minority rights in international law. *Human Rights Quarterly*, 19(3), 666–685.
PERICAY, Gaspar. (2010, June 28) The Spanish Constitutional Court shortens the Catalan Statute of Autonomy. *Catalan News Agency.* [Online]. Available: http://www.catalannewsagency.com/news/politics/the-spanish-constitutional-court-shortens-the-current-catalan-statute-of-autonom [29 July 2010].

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

PREECE, Jennifer. (1998) *National Minorities and the European Nation-states System* (Oxford: Clarendon Press).

PUJOLAR, Joan. (2007) The future of Catalan: Language endangerment and nationalist discourses in Catalonia. In *Discourses of Endangerment: Ideology and Interest in the Defence of Languages*, Alexandre Duchêne and Monica Heller (eds.) (London: Continuum).

RAWLS, John. (1971) *A Theory of Justice* (Oxford: Oxford University Press).

RAWLS, John. (1999) *The Law of Peoples* (Cambridge MA: Harvard University Press).

RÉAUME, Denise. (1999) Official language rights: Intrinsic value and the protection of difference. In *Citizenship in Diverse Societies*, Will Kymlicka and Wayne Norman (eds.) (Oxford: Oxford University Press).

SAFRAN, William. (2010) Political science and politics. In *Handbook of Language and Ethnic Identity: Disciplinary and Regional Perspectives*, Vol. 1., 2nd ed., Joshua Fishman and Ofelia García (eds.) (New York: Oxford University Press).

SANDEL, Michael. (1982) *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press).

SKUTNABB-KANGAS, Tove. (1998) Human rights and language wrongs—A future for diversity? *Language Sciences*, 20, 5–27.

SKUTNABB-KANGAS, Tove. (2000) *Linguistic Genocide in Education—or Worldwide Diversity and Human Rights?* (Mahwah, NJ: Lawrence Erlbaum).

STRUBELL, Miquel. (1998) Language, democracy and devolution in Catalonia. *Current Issues in Language and Society*, 5, 146–180.

TARROW, Norma. (1992) Language, interculturalism and human rights: Three European cases. *Prospects*, 22, 489–509.

TAYLOR, Charles. (1994) The politics of recognition. In *Multiculturalism: Examining the Politics of Recognition*, Amy Gutmann (ed.) (Princeton, NJ: Princeton University Press).

THORNBERRY, Patrick. (1991a) *International Law and the Rights of Minorities* (Oxford: Clarendon Press).

THORNBERRY, Patrick. (1991b) *Minorities and Human Rights Law* (London: Minority Rights Group).

THORNBERRY, Patrick. (1997) Minority rights. In *Collected Courses of the Academy of European Law, Vol. VI, Book 2*, Academy of European Law (ed.) (The Hague: Kluwer Law International).

TOLLEFSON, James. (1991) *Planning Language, Planning Inequality: Language Policy in the Community* (London: Longman).

TORRES, Joaquim. (1984) Problems of linguistic normalization in the Països Catalans: From the Congress of Catalan Culture to the present day. *International Journal of the Sociology of Language*, 47, 59–63.

TRENZ, Hans-Jörg. (2007) Reconciling diversity and unity: Language minorities and European integration. *Ethnicities*, 7, 157–185.

TROEBST, Stefan. (1998) *The Council of Europe's Framework Convention for the Protection of National Minorities Revisited* (Flensburg, Germany: European Centre for Minority Issues).

TROMMER, Silke, and CHARI, Raj. (2006) The Council of Europe: Interest groups and ideological missions? *West European Politics*, 29, 665–686.

VAN DYKE, Vernon. (1977) The individual, the state, and ethnic communities in political theory. *World Politics*, 29, 343–369.

WEINSTEIN, Brian. (1983) *The Civic Tongue: Political Consequences of Language Choices* (New York: Longman).

WILLIAMS, Colin. (2007) Articulating the horizons of Welsh. In *Language and Governance*, C. H. Williams (ed.) (Cardiff: University of Wales Press).

WOLFRUM, Rfidiger. (1993) The emergence of "new minorities" as a result of migration. In *Peoples and Minorities in International Law*, Catherine Brölmann, René Lefeber, and Marjoleine Zieck (eds.) (Dordrecht, Netherlands: Martinus Nijhoff Publishers).

WOOLARD, Kathryn. (1989) *Double Talk: Bilingualism and the Politics of Ethnicity in Catalonia* (Stanford, CA: Stanford University Press).

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014

XANTHAKI, Alexandra. (2007) *Indigenous Rights and United Nations Standards* (Cambridge: Cambridge University Press).

YATES, A. (1998) Language, democracy and devolution in Catalonia: A response to Miquel Strubell. *Current Issues in Language and Society*, 5, 204–209.

YOUNG, Iris. (1993) Together in Difference: Transforming the logic of group political conflict. In *Principled Positions: Postmodernism and the Rediscovery of Value*, Judith Squires (ed.) (London: Lawrence and Wishart).

YOUNG, Iris. (2000) *Inclusion and Democracy* (Oxford: Oxford University Press).

Downloaded by [Istanbul Universitesi Kutuphane ve Dok] at 11:47 20 December 2014